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SUBJECT: KOSOVO: WORLD BANK'S IFC INVOLVEMENT IN KOSOVO C
PROJECT RAISES CONCERNS ABOUT INTEGRITY AND TRANSPARENCY

REF: (A) 06 PRISTINA 545 (B) PRISTINA 260

Classified By: Chief of Mission Tina Kaidanow for reasons
1.4 (B) and (D).

11. (C) Summary. The proposal from the World Bank's International Finance Corporation (IFC) to take a 10 percent equity stake in one of the consortia short-listed to compete for the Kosovo C energy sector development tender has raised concerns within UNMIK, the PISG and USOP about the fairness, integrity and transparency of the project. The IFC's involvement in this project has created the perception of a potential conflict of interest given that the World Bank is paying for transaction, legal and environmental advisors to help develop and manage the Kosovo C tendering process. This issue could adversely impact the other bidders' perceptions about the integrity and transparency of the tendering process, raising the possibility that they might, if the IFC moves forward with its plans, consider withdrawing from the Kosovo C project. USG interests in this matter are twofold: the overall importance of developing Kosovo's energy sector in the context of USAID assistance to the Ministry of Energy and Mining and to the KEK utility, but even more important the commercial interest involved in the Kosovo C project, where three American companies are partners in the three of the four interested consortia. At a June 12 meeting of the Kosovo C project steering committee (PSC), where USAID sits only as an observer, it was agreed that UNMIK would write a letter to the World Bank Acting President to ask that the Bank look into the IFC matter as a matter of urgency, come up with a remedy to avoid the appearance of conflict of interest, and notify the relevant consortia to protect the integrity of the process. End Summary.

IFC's INVOLVEMENT IN KOSOVO C PROJECT RAISES CONFLICT OF
INTEREST CONCERNS

12. (C) On June 8, Minister of Energy and Mining (MEM) Ethem Ceku sent a letter to USOP to highlight IFC's negotiations with one of the short-listed consortia, SENCAP (American company Contour Global/Greek Power Corporation/Italian company ENEL/European Bank for Reconstruction and Development, which has a 10 percent equity stake), to obtain a 10 percent share in this consortium, which is one of four competing for the energy sector development project known as Kosovo C (ref A). Ceku noted that this situation raises potential conflict of interest concerns for the other bidders; his letter also underscored the importance of

preserving the integrity and transparency of the project and called for a meeting of the Kosovo C Project Steering Committee (PSC) on June 12 to discuss this situation with local World Bank representatives and to review further steps.

On June 11, World Bank Resident Representative Ranjit Nayak called COM to review the situation from his perspective; though he tried to defend the Bank by claiming that all four of the Kosovo C consortia had been approached by the IFC but only SENCAP expressed an interest in IFC assistance, he readily acknowledged that the optics of this situation were problematic and implied that he had known nothing about the IFC activities until just recently.

13. (C) On June 12 COM met with PDSRSG Steve Schook, UNMIK Office of Legal Affairs (OLA) Senior Legal Officer Ernst Tschoepke, and USAID Mission Director Farbman and his staff

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to discuss this issue. All agreed that the IFC's involvement in this project has created the perception of a potential conflict of interest given that the World Bank is paying for transaction, legal and environmental advisors to help develop and manage the Kosovo C tendering process and retains "no objection" rights over all material actions recommended by the PSC. Schook expressed concerns about how this might adversely impact the other bidders' perceptions about the integrity and transparency of the tendering process, and he worried that they might ultimately consider withdrawing from the Kosovo C project. Schook and Tschoepke said they would propose to the PSC that UNMIK write a letter to the World Bank Acting President to ask that the Bank review the IFC issue and propose a remedy for eliminating the perceived conflict of interest, as well as notify the other three consortia about this matter to protect the perception of fairness and integrity of the process. Subsequently, the PSC agreed to this course of action; the letter was sent out on June 13.

IFC BELIEVES IT CAN MAKE ITS INVOLVEMENT IN KOSOVO C WORK

14. (C) In a June 14 telecon with USAID Mission Director Farbman initiated by the IFC technical staff working on the SENCAP transaction, Farbman was told that the IFC believes that it can make a non-conflicting deal with SENCAP. IFC staff claimed they have encountered similar problems - e.g., IFC-supported investors bidding on World Bank-supported competitive tenders - elsewhere, and have overcome them with creative legal techniques and firewalls separating the decision-making of the two organizations, and by making available to all prospective bidders the same offer of assistance. IFC staff were clear they did not want to cancel the deal with SENCAP and wanted to discuss with their Bank colleagues the feasibility of a proposed firewall solution before they try to persuade Kosovo C stakeholders. IFC staff are scheduled to be in the region (Istanbul) beginning June 15 and will offer to come to Pristina to discuss options with the PSC or other stakeholders, if asked, at the convenience of UNMIK and the PISG.

15. (C) Comment: We are very concerned about the appearance of conflict of interest in IFC's involvement with the SENCAP consortium given the World Bank's deep involvement in the Kosovo C process. It is not clear that simply putting up "firewalls" would substantially alter the perception of a conflict of interest. Expedient public action taken by the World Bank to quickly clarify and resolve this matter would be a welcome step by USOP, UNMIK, the PISG and especially the bidders to ensure the integrity and transparency of Kosovo C, ameliorate tenuous relations between the Bank and Minister Ceku, and dispel any Kosovar or international notions that "the fix is in" for one particular consortium rather than the fair, competitive process we are working hard to achieve. End Comment.

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